

REMARKS

This communication responds to the Office Action mailed April 4, 2008 for the application captioned above.

Following the amendments and the election provided above, claims 1-9 remain pending. Applicant submits that the amendments to claim 1 do not constitute new matter. The table provided below highlights at least some the portions of applicant's written description that support each claim amendment.

Amended Limitation of Claim 1	Supported by at least
<u>the amount being specific to a particular subject</u>	Publication paragraphs 0031 & 0033
<u>the conversion being performed by a processor and the preset ratio being programmable into the processor,</u>	Publication paragraphs 0047
<u>the preset ratio resulting in a total number of the intake points the subject is allowed to consume during an intake period that is one or two digits long</u>	Publication paragraphs 0010, 0029, Fig. 1
<u>selectively displaying on a display a conversion scale listing the relationship between multiple intake point values and the corresponding amounts by weight of dietary sodium, the relationships displayed being based on the preset ratio, the display operatively connected to the processor;</u>	Fig. 1, Publication paragraph 0047
<u>selectively entering into the processor the number of intake points associated with the portion of food that will be consumed or the amount by weight of the standard measurement system of dietary sodium in a portion of food that will be consumed, such entry into the processor of the number of intake points or the amount by weight of dietary sodium being user-selectable;</u>	Publication paragraphs 0047, Fig. 9
<u>displaying as an output the running sum of intake points on the display</u>	Publication paragraphs 0047, 0053; and Figs. 8 and 10

Objection

Claims 4, 5, 6 and 21 stand rejected because of informalities. Applicants thank the Examiner for identifying and making suggestions for correct said informalities. Applicants have made amendments to claims 4, 5, and 6 to correct said informalities with regard to the Examiner's suggestions. Claim 21 has been canceled.

§101 Rejection

Claim 1 stands rejected under 35 U.S.C. 101 because the claimed invention is not supported by a tangible result. Claim 16 stands rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 22 stands rejected under 35 U.S.C. 101 because the claimed invention is not supported by a tangible result. In light of the amendments above, Applicant requests reconsideration. Claims 16 and 22 have been canceled. Claim 1 has been amended to now recite structure (e.g., processor, display) and a tangible output (e.g., displaying an output). Accordingly, Applicant submits that claim 1, as amended, represents patentable subject matter, and Applicant requests withdrawal of the rejection under §101 of claim 1.

§102 and §103 Rejections

Claims 1-8, 15, 16 and 20-22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Mault et al. US Patent Publication Number 2002/0133378. Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Mault et al. US Patent Publication Number 2002/0133378. In light of the amendments above, Applicant requests reconsideration.

For instance, in claim 1, Mault does not disclose the step of 1a. The Examiner cites to drawing figures 3k (copied below) as showing a Nutrient Target daily target for sodium set at 2400 mg.

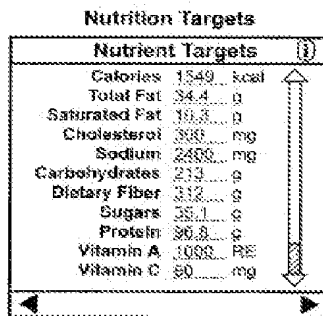


FIG - 3K

However, the sodium value of 2400 mg shown here and, apparently, other places in Mault is a recommended daily allowance (RDA) value for the general public. It does not represent an amount specific to a particular subject since it is merely an RDA for the general public.

Mault also does not disclose an intake point total that is “one or two digits long,” as required by claim 1. The Examiner cites Figure 8C (copied below) as showing the percentage points where 100% would be equal to 2400 mg for Sodium.

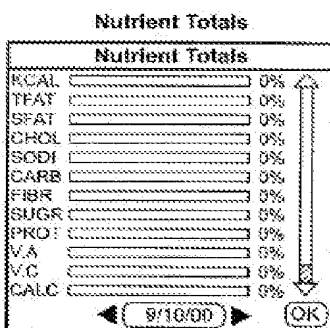
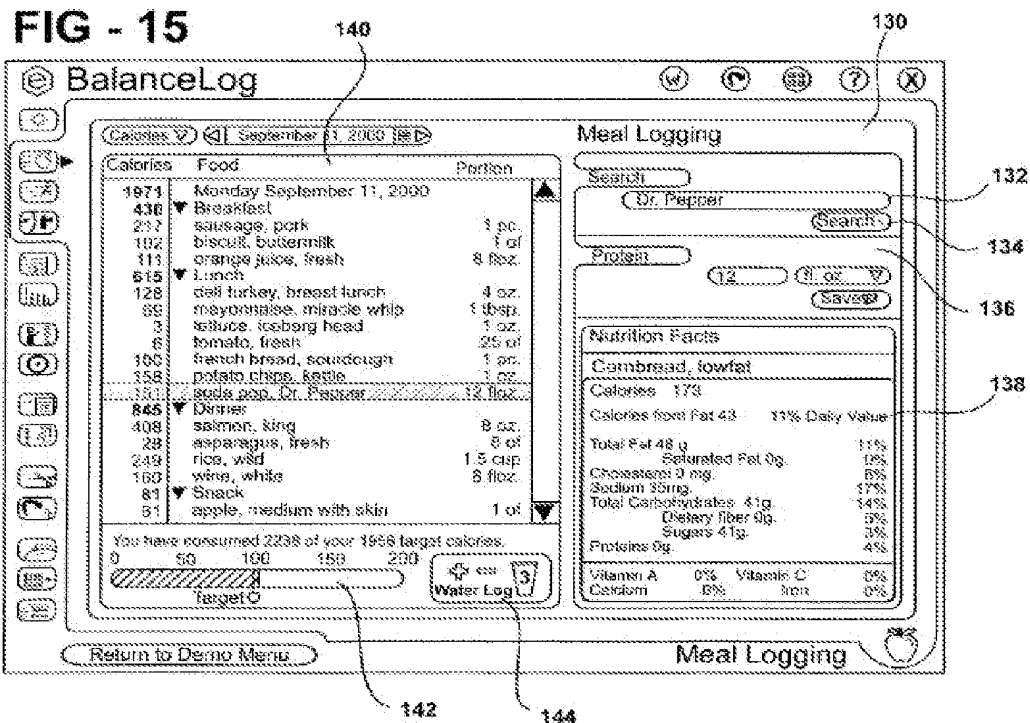


FIG - 8C

However, even assuming 100% is indicative of intake points, which Applicant does not concede, such a points value is always fixed at 100. Applicant's system accounts for differing amounts of sodium acceptable per day via the use of a simple one or two digit intake points system. A particular subject's acceptable intake point total may change under the claimed system, representing the fact that a subject's acceptable sodium intake may be changed as his/her health changes.

Mault also does not show the limitation of paragraph “c” of amended claim 1. The Examiner points to the “Nutrition Facts” in Fig. 15 of Mault (copied below).



Under the “Nutrition Facts” in Fig. 15, Mault merely lists Sodium 35 mg and 17% Daily Value. Such a listing does not provide the relationship between multiple intake point value and the corresponding amounts by weight of dietary sodium. Under the claimed invention, patients following sodium-restricted diets have an easy, uniform way to calculate sodium intake in their diets without having to learn complicated mathematical calculations. Moreover, by having a reference display available showing the relationship between intake points and amounts of dietary sodium, patients are empowered to make appropriate food choices based on the easily understandable system of intake points. That is, a patient is empowered to put down foods that have a high number of intake points. Under the meal logging in Fig. 15 of Mault, a patient may merely log his/her food without necessarily understanding the impact on his/her the acceptable level of sodium – until it’s too late and the food has been consumed.

Mault also does not show the limitation of paragraph “e” of amended claim 1. This feature of Applicant’s claimed invention provides the user the flexibility of entering the intake points or the amount by weight of the dietary sodium in a portion of food that will be consumed. Since Mault does not empower the subject patient with an understanding of the points associated with a portion of food, as in the claimed invention, the subject patient of Mault cannot easily understand the impact of the food choices he/she is making.

Accordingly, since Mault does not teach or suggest at least the features of amended claim 1 provided above, Applicant respectfully submits that any rejection of claim 1 under §102 or §103 based on Mault should be withdrawn. Since pending claims 2 – 9 all depend directly or indirectly from independent claim 1, Applicant submits that any rejection of such dependent claims under §102 or §103 based on Mault should be withdrawn for at least the same reasons.

In addition, Mault does not teach or suggest the specific features of dependent claim 5. As noted in the specification for the present application, an individual on a restricted sodium diet is often on that diet because of certain physical conditions. A short-term change in weight can signal a significant worsening of the condition requiring prompt medical attention. Often the rapid weight losses or gains are related to body fluid status. In some cases a change of as little as two pounds is significant and taking remedial action, as noted in claim 5, is important. Mault merely uses body weight as a measure of progress towards a weight reduction goal. Accordingly, Applicant respectfully submits that the rejection of claim 5 based on Mault should be withdrawn for at least this additional reason.

It is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested. The Examiner is invited to telephone the undersigned in the event there are any questions concerning the election or if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

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